

IN PIMA COUNTY SUPERIOR COURT

FILED  
GARY L. HARRISON  
CLERK, SUPERIOR COURT

2019 JAN -7 AM 9:10

AFFIDAVIT FOR SEARCH WARRANT

**19SW0034**

No.  
D. WANDELL, DEPUTY

YOUR AFFIANT, **Special Agent Cullen Conerly**, A PEACE OFFICER IN THE STATE OF ARIZONA AND EMPLOYED BY THE UNITED STATES DRUG ENFORCEMENT ADMINISTRATION, BEING FIRST DULY SWORN, UPON OATH, DESPOSES AND SAYS:

From or about the 4th day of July 2018 to August 27, 2018 a public offense in violation of Arizona Revised Statutes:

- A.R.S. 13-1003, Conspiracy, a Class 2 Felony,
- A.R.S. 13-2312, Illegally Conducting an Enterprise, a Class 3 Felony,
- A.R.S. 13-2809 (A)(1), Tampering With Physical Evidence, a Class 6 Felony
- A.R.S. 13-3408(A)(7), Transport For Sale, Import Into This State or Offer To Transport For Sale or Import Into This State, Sell, Transfer, or Offer To Sell Or Transfer A Narcotic Drug, a Class 2 Felony,
- A.R.S. 13-3417(A), Use of a Wire Communication, a Class 6 Felony,

was or is being committed in the County of Cochise, State of Arizona.

YOUR AFFIANT (has probable cause to believe) that:

{X} on the person(s) of:

- Timothy Arthur EVICCI, DOB 10/12/1971, 5'8", 265 pounds, Brown hair, Blue eyes, SSN [REDACTED]-0761

{X} in and upon the premises (including all buildings, structures, rooms, equipment, and vehicles used in connection or located within the curtilage of said premises) known and described as:

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- 1703 South Sarah Lane, Saint David, Arizona 85630 is described as a brown colored logged style residence and the numbers "1703" are displayed on the entrance before entering the property. There is a red shed located on the southwest side of the residence. There is black fencing that is approximately six feet in height that partially surrounds the residence property line, located on the South end of the property line. The property is located on the West side of South Sarah Lane just North of East 4<sup>th</sup> Ave.

**\*SEE ATTACHMENT B\***

{ } in vehicle(s) described as:

there is certain person (s), property or things

{X} is the subject of an outstanding arrest warrant and/or is wanted for the above mentioned charges

{ } Which are stolen or embezzled

{X} Which were used as means for committing a public offense

{X} Which are being possessed with intent to use as a means of committing a public offense

{ } Which are in the possession of to whom it was delivered for the purpose of concealing it or preventing it from being discovered

{X} which consists of any item or constitutes any evidence which tends to show that a public offense has been committed such as being more fully described in the affidavit.

That said property or things are described as follows:

**"SEE ATTACHMENT A"**

That the following facts establish probable cause for believing that grounds for the issuance of a search warrant for the aforementioned items/persons exists:

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Since January, 2018, Special Agents from the Drug Enforcement Administration (DEA) Sierra Vista Resident Office (SVRO) have been working a joint investigation with the Cochise County Sheriff's Office (CCSO) and the Arizona Department of Public Safety (DPS) into the Timothy Francis HENRY Transnational Criminal Organization (TCO). On July 2, 2018, agents obtained Pima County Superior Court Order 18-WT-0001 authorizing the interception of wire communications to and from phone number (520) 220-9360 (Target Telephone One or TT-1) used by HENRY. On July 31, 2018, agents obtained Pima County Superior Court Order 18-WT-0001 authorizing the 30-Day extension for the interception of wire communications to and from phone number TT-1 used by HENRY.

On August 12, 2018 at approximately 1:17 a.m., Timothy EVICCI was arrested by Cochise County Sheriff's Office Deputy J Wiedemann for Criminal Speed (A.R.S. 28-701.02A3-Exceeding 85 miles per hour), Reckless Driving (A.R.S. 28-693A), and Unlawful Flight from Pursuing Law Enforcement Vehicle (A.R.S. 28-622.01). EVICCI was driving a 2006 Chrysler 300, bearing Arizona license plate CBP8672, eastbound on Highway 90 with no headlights. Deputy Wiedemann initiated a traffic stop on the vehicle and the 300 initially stopped on the wide of Moson Road in Sierra Vista, Arizona. However, the vehicle then took off at a high rate of speed before turning onto Charleston Road and eventually coming to a stop. The driver, EVICCI, exited the vehicle with his hands up and was taken into custody without further incident. Cochise County Deputies also spoke with EVICCI's passenger, his wife, Rebekah FERNANDEZ. FERNANDEZ stated that EVICCI initially pulled over but then verbalized that he did not want to go back to prison and began fleeing. FERNANDEZ was released from the scene.

On the same date, at approximately 6:55 p.m., reference TT-1 call session 9293, HENRY received an incoming call from 520-221-0781. The user of (520) 221-0781 identified himself as, "Tim," and through voice comparison, agents identified the user of the phone to be Timothy EVICCI. EVICCI stated he had just bonded out of jail after getting pulled over and arrested on Moson Road. HENRY asked for details regarding what happened with the incident. EVICCI explained that his Chrysler 300 had a headlight that was not working which forced him to drive with his bright lights on at night. EVICCI saw a vehicle

approaching and turned his bright lights off which only left his fog lights activated. The vehicle he passed was a police officer which then did a U-turn and stated to follow him. The police officer activated his lights to initiate a traffic stop on EVICCI and he initially stopped. However, EVICCI then decided he could not stop and began running from the police. EVICCI said that he threw some of, "Joey's (agents believe Joey to be HENRY's friend, Joseph THEODOSIS) shit out of the window." EVICCI then told HENRY he would come over and explain more details regarding the incident to HENRY in person.

On the same date, at approximately 7:12 p.m., reference call session 9311, HENRY received an incoming call from EVICCI. EVICCI stated that he did not want to drive to HENRY's house, but asked if HENRY would be willing to look for what he threw out of the car. EVICCI said it was shaped like a giant sausage, wrapped in cellophane, and had, "all kinds of shit in it." HENRY said he would leave right then to go look for it off of Moson Road while it was still light outside. EVICCI told HENRY the package had, "a couple of mine in it and a couple of yours." At approximately 7:33 p.m., agents received a geolocation ping on HENRY's cell phone, (520) 220-9360 (TT-1) which showed TT-1 was at 31.594716, -110.189588 with an accuracy of two meters. This placed TT-1 on North Moson Road just south of East Charleston Road.

On the same date, at approximately 7:15 p.m., reference call session 9312, HENRY received an incoming call from EVICCI. EVICCI told HENRY, "there's going to be two of yours two of mine in there, be careful with it." EVICCI also stated, "It's a big package, shouldn't be far off the road."

On the same date, at approximately 7:22 p.m., reference call session 9315, HENRY received an incoming call from EVICCI. HENRY and EVICCI discussed exactly where the product may have been thrown. During the conversation with EVICCI, a female believed to be FERNANDEZ began participating in the conversation and said that she held onto it for a while because EVICCI kept telling her, "not yet." FERNANDEZ stated it was difficult for her to throw the product far off the road because the wind from the high speeds made it difficult for her to push the car door open to throw the product

out of the car. EVICCI told HENRY that he thought FERNANDEZ threw the product out of the car right when he started to speed off, but FERNANDEZ stated she held onto it for a while and threw it approximately 1/4 mile south of Charleston Road. EVICCI told HENRY he was in fight or flight mode while running from the police so it was difficult for him to recount all of the details.

On the same date, reference call sessions 9327, 9329, and 9332 HENRY and EVICCI exchanged several more phone calls regarding the location of the product as HENRY and EVICCI were actively searching Moson Road. In call session 9329, FERNANDEZ stated she threw the product off of the pavement, but not very far off of the pavement. In the same call session, EVICCI told HENRY if, "they" (law enforcement) found the product EVICCI would have already received additional criminal charges.

On August 14, 2018, reference TT-1 call session 9888, HENRY received an incoming call from EVICCI. During the conversation, EVICCI told HENRY that the he [THEODOSIS] stole items from EVICCI's residence while EVICCI was in custody. HENRY asked EVICCI how he [THEODOSIS] knew where to find the stuff. EVICCI told HENRY that when he [THEODOSIS] was at the place, he [THEODOSIS] was asking him [EVICCI] for the stuff and EVICCI told him [THEODOSIS] what he [EVICCI] had, since he [THEODOSIS] was at his [EVICCI] place, he [EVICCI] thought he [EVICCI] could trust him [THEODOSIS]. HENRY told EVICCI that it was weird because if it was him [HENRY] he would have taken everything, including the guns. EVICCI agreed with HENRY and said he [EVICCI] would have taken everything. EVICCI and HENRY agreed that the situation did not make any sense at all. EVICCI told HENRY that the box had all his pills, methadone, [U/I], and "all that shit". EVICCI continued the conversation by attempting to describe to HENRY what else was missing from his house, to include "shrooms". EVICCI and HENRY finished the conversation on how HENRY could get in contact with him [THEODOSIS] and how HENRY was going to check his own yard. Agents believed HENRY and EVICCI had a conversation about an individual named Joseph THEODOSIS who was currently staying over HENRY's residence. EVICCI contacted HENRY and informed him that he believed that THEODOSIS stole his pills from his box inside his residence. However, THEODOSIS did not take

EVICCI's guns from him that were at EVICCI's residence. Furthermore, EVICCI, HENRY, and THEODOSIS are all prohibited possessors.

On August 23, 2018, Agents from the SVRO and DPS conducted physical surveillance of HENRY, Daniel HUNTER, and James LEWANDOWSKI in conjunction with intercepted communications of phone numbers (520)220-9360 (TT-1), utilized by HENRY, and (520)999-1669 (TT-2), utilized by HUNTER, via Pima County Superior Court Authorized T-III Order 18-WT-0001.

Special Agent (SA) William Cordero, acting in an undercover capacity and hereafter referred to as, "UC-1," previously negotiated with HENRY for a purchase of 500 30mg Oxycodone pills for \$20.00 per pill. On August 17, 2018, reference TT-1 call session 10907, UC-1 placed a call to HENRY and asked if they're still good for the, "500" and told HENRY he would be in Tucson the next week.

On August 23, 2018, at approximately 8:53 a.m., reference call session 12297, HENRY placed an outgoing call to (480)737-9749, utilized by Timothy EVICCI. HENRY told EVICCI that the guy is coming for the, "heeler pups" and would be in town at 11:00 a.m. "Heeler pups" is a code word used by HENRY and EVICCI for Oxycodone pills. HENRY told EVICCI that he overslept and was running late, but would be leaving his house to drive to EVICCI's house to pick him up. EVICCI told HENRY that they would have to go to Tucson to retrieve the product prior to meeting with UC-1.

On the same date, at approximately 9:14 a.m., reference call session 12305, HENRY received an incoming text message from EVICCI. The text read, "Hey bro I'm sorry but this person isn't going to be off work until 5 o'clock and there's nothing that can be done about it to make it have an any sooner as far as I know right now I was never given the timing on so I didn't know if I wanna known it was gonna be early and I know you didn't know either so but this is the situation were in so give me a call back later."



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On the same date, at approximately 9:14 a.m., reference call session 12305, HENRY received an incoming call from EVICCI. EVICCI asked if HENRY received his text message and said that he was not aware when HENRY was planning on receiving the pills. EVICCI stated that the person he obtains the pills from was his friend and told EVICCI to just call when he needed it, but EVICCI didn't know when HENRY was going to need it. EVICCI said he called his friend and was told that they would have to wait until after 5:00 p.m.

On the same date, at approximately 10:59 a.m., reference call session 12374, HENRY received an incoming call from EVICCI. EVICCI apologized to HENRY and explained that between the 3rd and 5th of every month he gets 360, but when he needs to get more he needs to get them through another guy.

On the same date, at approximately 12:24 p.m., reference call session 12399, HENRY placed an outgoing call to EVICCI. HENRY asked EVICCI exactly what time they would have possession of the product. EVICCI stated that his friend, "Mark," always had, "good dogs," and that it should be between five o'clock and six o'clock.

On the same date, at approximately 12:35 p.m., reference call session 12404, HENRY placed an outgoing call to EVICCI. HENRY told EVICCI that UC-1 would probably want to meet at the TTT and HENRY asked if EVICCI could be there by 5:30 p.m. EVICCI told HENRY that he would call his guy and see. EVICCI asked HENRY if he was charging UC-1 \$25.00, and HENRY replied that he was charging him \$20.00. EVICCI said he was not worried about making a killing yet and just wanted to get the deals with UC-1 going. EVICCI once again told HENRY that he would be good on the 5th and would just hold his pills until the next time UC-1 would come. EVICCI told HENRY that he would call and verify it was for sure.

On the same date, at approximately 1:12 p.m., reference call session 12417, EVICCI sent HENRY a text message which read, "Yeah he says that he can't get a hold of him right now to make no guarantee

but other than what he said he gets off at five so until he has another break he won't hear from he texted him and you call them and nothing so he called me back and told me that you can get a hold of me yet again so I don't know what to say wrong I mean if I would've had more notice of anything you know to be able to tell him or if I would've understood exactly more of what was going on and what you needed to do then I would've known when I needed to do so understand the position that I'm in and I mean I wasn't told much and wasn't I can't just go up there and get you know 10K worth of shit and just say all right I'll see you when I see you call me if you want."

On the same date, at approximately 1:14 p.m., reference call session 12423, HENRY placed an outgoing call to EVICCI. HENRY told EVICCI that he would tell UC-1 to go back. EVICCI told HENRY that he could not make any promises for today and repeated that he only gets 360 but could get as many as needed as long as he's told when.

On August 31, 2018, investigators conducted aerial surveillance of 1703 S Sarah Lane, Saint David, Arizona 85630, a property owned by EVICCI and believed to be EVICCI's primary residence, and observed a Chrysler 300 and a white early 200's model Ford pickup truck parked in front of the residence.

On December 31, 2018, investigators conducted physical surveillance of 1703 S Sarah Lane. While driving by EVICCI's residence investigators observed an early 2000's model white Ford pickup truck parked in front of EVICCI's residence. Simultaneously, investigators observed a teenage white male exit EVICCI's house, walk to the road, and stare at the investigators' vehicle as they drove by EVICCI's residence. Investigators are aware that EVICCI has a teenage son who lives with him and FERNANDEZ from previous intercepted wire communications between EVICCI and HENRY. Investigators also know from law enforcement databases that EVICCI has a white 2000 Ford pickup truck registered to him and that EVICCI's house is equipped with several security cameras which would prompt the counter-surveillance measures taken by the teenage male as investigators neared EVICCI's residence.



Your Affiant knows, from prior training and experience in investigating drug crimes, that the aforementioned facts and circumstances show that EVICCI is actively engaged in the sale of narcotic drugs. Further, your Affiant knows that a person who sells narcotic drugs is typically engaged in the sales or use of other illicit drugs, to include but not limited to Marijuana, Cocaine, and/or Heroin. Further, your Affiant knows that persons who engage in the sale of narcotic drugs, or use of illegal drugs, often possess firearms in which are utilized to protect their drugs and proceeds from persons who wish to forcefully steal from the drug dealer. As previously reference in TT-1 call session 9888, your Affiant is aware that EVICCI maintains firearms in the same area that he stores his illegal drugs.

Your Affiant believes there is just and probable cause that EVICCI possesses items of evidentiary value inside 1703 South Sarah Lane, Saint David, Arizona 85630 as listed above, that proves he is indeed engaged in the sale of narcotic drugs. Your Affiant believes that EVICCI currently resides at 1703 South Sarah Lane and that there will be additional information pertaining to EVICCI's involvement in the Transnational Criminal Organization (TCO) involving EVICCI, HENRY, and LORETO JR. inside the residence.

Your Affiant requests a daytime warrant be granted for Timothy Arthur EVICCI DOB 10/12/1971 1703 South Sarah Lane, Saint David, Arizona 85630 and all buildings and vehicles found within the curtilage of the property. Your Affiant requests a search warrant be issued commanding a search be made of the persons, premises, buildings, and vehicles described herein for the property, persons and things herein described, and the same be retained in the custody of the Affiant or in the custody of the agency which the Affiant represents and disposed of according to law, pursuant to A.R.S. 13-3920.

*Cullen D. Conerly*

Special Agent Cullen Conerly

Peace Officer for the State of Arizona

Sworn to before me this 7<sup>th</sup> day of Jan, 2019

*D. Berning*  
Hon D. Berning  
Superior Court Judge